



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4813 OF 2024
IN
CRIMINAL APPEAL NO. 980 OF 2024

Laxman S/o. Irappa Wale,
Age : 47 Years, Occu. : Agriculture,
R/o. Aadgaon, Tq. Loha,
Dist. Nanded.

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra
Through : Police Inspector
Police Station Loha, Tq. Loha,
Dist. Nanded.
2. Mahesh Bhimrao Waghmare
Age : 39 Years, Occu. : Service,
R/o. Sub-station Colony, Loha,
Dist. Nanded.
3. Shivshankar Suryabhan Punjarwad
Age : 35 Years, Occu. : Service (P.C.B.N. No.249),
R/o. Near Police Station Rural Nanded,
Tq. & Dist. Nanded.

... Respondents

.....
Mr. Kishor T. Shirrurkar, Advocate for the Applicant.
Mrs. Ashlesha S. Deshmukh, APP for Respondent No.1.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 12.12.2024
Pronounced on : 14.12.2024

ORDER :

1. Instant application is with prayer for suspension of sentence awarded by Additional Sessions Judge-2, Kandhar, in Sessions Case No.03/2020, Dated 03.10.2024.

2. Learned counsel for applicant submitted that, applicant was tried for commission of offence punishable under Sections 353, 332, 504, 506 of the Indian Penal Code (hereinafter referred to as "IPC") and Section 110 r/w. Section 117 of the Bombay Police Act (hereinafter referred to as "BP ACT"), on allegation that he scuffled with Deputy Executive Engineer, Loha i.e. complainant, while he was set to be performing of his work. That case was decided and applicant was convicted by judgment and order dated 03.10.2024, recording guilt for offence punishable under Sections 353, 332 of IPC and Section 110 r/w. 117 of BP Act.

3. Learned counsel further submitted that, sentence awarded is for three months and to pay fine. Said fine amount is paid by the applicant. That, applicant was on bail during trial. He has questioned judgment and order of conviction and filed appeal. However, appeal being of the 2024, it would take long time to be heard and decided and thus, according to him, considering the small sentence, prayer for suspension of sentence is pressed into service. Learned counsel further

submitted that, trial court had already suspended sentence even after conviction.

4. Learned APP opposed the application on the ground that, on complete appreciation, guilt has been recorded. That, there is obstruction to complainant while performing his duty. That, charges are proved. She further submitted that, though learned trial court had suspended sentence for one month, thereafter, applicant did not surrender. For all above reasons, she opposed the application and sought rejection.

5. Perused the papers, it seems that, applicant was tried by learned Additional Sessions Judge-2, Kandhar, in Sessions Case No.03/2020, for above sections and by judgment and order dated 03.10.2024, he is held guilty. Papers further show that, appeal has been preferred against the same and same is numbered as Criminal Appeal No.980/2024. Sentence awarded is apparently for three months. Appeal is of the year 2024. Statement is made across the bar that, applicant was on bail during trial. Taking said circumstances into consideration, relief as prayed deserves to be granted. Hence, following order.

ORDER

- i) Criminal Application No.4813/2024 is allowed.
- ii) The substantive sentence imposed on applicant Laxman S/o. Irappa Wale, by learned Additional Sessions Judge-2, Kandhar in Sessions Case No.03/2020 on 03.10.2024, stands suspended till final hearing and disposal of Criminal Appeal No.980/2024.
- iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- iv) The applicant shall not commit any criminal activity.
- v) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.
- vi) In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.
- vii) Bail before the trial court.

[ABHAY S. WAGHWASE, J.]